

**§ 401.601 [Reserved]****§ 401.602 Tenant protections if an expiring contract is not renewed.**

(a) *Required notices.* (1)(i) The owner of an eligible project who has requested a Restructuring Plan and contract renewal must provide a 12-month notice as provided in section 514(d) of MAHRA if the owner later decides not to extend or renew an expiring contract (except due to a rejection under §§ 401.101, 401.403, 401.405, or 401.451. If the owner gives such 12-month notice, the owner is not required to give a separate notice under section 8(c)(8) of the United States Housing Act of 1937.

(ii) An owner who gives the 12-month notice required by paragraph (a)(1)(i) of this section and who determines not to renew a contract must give additional notice not less than 120 days before the contract expiration.

(2) The owner of an eligible project who has not requested a Restructuring Plan, or an owner who requested a Restructuring Plan but who has been rejected under §§ 401.101, 401.403, 401.405, or 401.451, must provide 12 month's advance notice under section 8(c)(8)(A) of the United States Housing Act of 1937 (or notice as otherwise provided in section 8(c)(8)(C) of such Act), unless project-based assistance is renewed under § 402.4.

(3) Notices required by this paragraph must be provided to tenants and to HUD or the contract administrator. HUD will prescribe the form of notices under this paragraph, to the extent that the form is not prescribed by section 8(c)(8) of the United States Housing Act of 1937.

(b) *If owner does not give notice.* If an owner described in paragraph (a)(1) or (a)(2) of this section does not give timely notice of non-renewal or termination, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction due to inability to collect an increased tenant portion of rent.

(c) *Availability of tenant-based assistance.* (1) Subject to the availability of amounts provided in advance in appropriations and the eligibility requirements of the tenant-based assistance

program regulations, HUD will make tenant-based assistance available under the following circumstances:

(i) If the owner of an eligible project does not extend or renew the project-based assistance, any eligible tenant residing in a unit assisted under the expiring contract on the date of expiration will be eligible to receive assistance on the later of the date of expiration or the date the owner's obligations under paragraph (b) of this section expire; and

(ii) If a request for a Restructuring Plan is rejected under § 401.101, § 401.403, § 401.405, or 401.451, and project-based assistance is not otherwise renewed, any eligible tenant who is a low-income family or who resides in a project-based assisted unit on the date of Plan rejection will be eligible to receive assistance on the later of the date the Restructuring Plan is rejected, or the date the owner's obligations under paragraph (b) of this section expire.

(2) If the tenant was assisted under the expiring contract, assistance under this paragraph will be in the form of enhanced vouchers as provided in section 8(t) of the United States Housing Act of 1937.

**§ 401.605 Project-based assistance provisions.**

The project-based assistance rents for a restructured project must be the restructured rents determined under the Restructuring Plan in accordance with §§ 401.410 or 401.411.

**§ 401.606 Tenant-based assistance provisions.**

If the Restructuring Plan provides for tenant-based assistance, each assisted family residing in a unit assisted under the expiring project-based assistance contract when the contract terminates will be offered tenant-based assistance if the family meets the eligibility requirements under part 982. Whenever permitted by section 515(c)(4) of MAHRA, the tenant-based assistance will be in the form of enhanced vouchers as provided in section 8(t) of the United States Housing Act of 1937.